IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

TUESDAY, THE 16TH OCTOBER 2007 / 24TH ASWINA 1929

WP(C).No. 29360 of 2007(T)

PETITIONER:

S.THANKAMANI,
PADMAVILAS, THONNALLOOR, PANDALAM,
PATHANAMTHITTA DISTRICT.

BY ADV. SRI.M.BALAGOVINDAN
SRI.M.R.SASITH

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
CHIEF SECRETARY, SECRETARIAT,
THIRUVANANTHAPURAM.

2. SECRETARY TO GOVERNMENT,
DEPT. OF AGRICULTURE, SECRETARIAT,
THIRUVANANTHAPURAM.

3. DIRECTOR OF AGRICULTURE,
DIRECTORATE OF AGRICULTURE,
THIRUVANANTHAPURAM.

4. ACCOUNTANT GENERAL (A & E), KERALA,
OFFICE OF THE ACCOUNTANT GENERAL,
THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI.BEJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.GIRI, J.

W.P.(C).No.29360 of 2007 T

Dated this the 16th day of October, 2007.

JUDGMENT

The petitioner's husband Haridas retired as Deputy Director of Agriculture in the year 1997 and he died on 14.10.1997. According to the petitioner, Haridas and she got married as per customary rights in the year 1967. Though the relationship was cordial in the beginning, according to the petitioner, it got strained later. Apparently, the parties executed some document, by which they had expressed their intention to live separately. Petitioner contends that, nevertheless there was no divorce in the eye of law.

2. On the death of Haridas, the petitioner moved the department for family pension as well as retirement benefits due under the account of Haridas. By Ext.P3 communication, the petitioner was informed by the Director of Agriculture that she may produce succession certificate/legal heir ship certificate obtained for the sanction of family pension and Death cum Retirement Gratuity relating to late Haridas. Thereupon, the petitioner approached the Sub Court, Thiruvananthapuram in O.P.(Succession)No.26/2006 and Ext.P4 order is passed issuing succession certificate entitling her to receive family pension of

deceased Haridas from the Agriculture Department of Government of Kerala.

3. The petitioner contends that Ext.P4 was produced at the office of the Director of Agriculture. But, nevertheless neither the Death cum Retirement Gratuity nor the family pension has been disbursed to her.

4. Learned Government Pleader, on instructions, submits that a portion of the Death cum Retirement Gratuity has been disbursed to the petitioner and steps are being taken to pay the balance. Insofar as the family pension is concerned, he submits that a final decision has not been taken so far.

5. In the circumstances where the Civil Court has already issued a succession certificate to the petitioner entitling her to receive family pension, it is not open to the respondents to deny her the family pension, by taking up an issue regarding the alleged marital status of the petitioner at the time of death of Haridas. At any rate, if there is any dispute, the nature of the dispute must be communicated to the petitioner and obviously, unless there is a rival claim, it would not be possible for the department to straight away deny the petitioner family pension. This is especially so, since even according to the department, a portion

of the Death cum Retirement Gratuity has already been granted to her and the remaining amount will be disbursed without further delay.

6. In the circumstances, the writ petition is disposed of in the following lines:

(a) The petitioner will file a representation before the Government, the first respondent, producing a certified copy of Ext.P4 order as also a certified copy of the application which led to O.P.(Succession)No.26/06 before the Additional Sub Court, Thiruvanthapuram.

(b) The petitioner shall also file an affidavit undertaking that she will indemnify the Government for the loss, if any, that may be caused to the Government, in the event of the latter discovering that there is some other person, who has a better claim for family pension and Death cum Retirement Gratuity, other than the petitioner.

(c) On receipt of such affidavit/undertaking or indemnity bond, steps shall be taken to disburse the balance Death cum Retirement Gratuity to the petitioner, as also the family pension that the petitioner is entitled to, in accordance with the Rules.

(d) In the event of the Government or the Director of Agriculture receiving any complaint or a rival claim from any other person, staking a claim for the family pension under the account of Haridas, the fact may be intimated to the petitioner within a period of one month from the date of receipt of the representation.

(e) The entire process as outlined above shall be completed within a period of three months from the date of receipt of a copy of this judgment.

Sd/-
(V.GIRI)
JUDGE

sk/

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P.S. To Judge